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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/080,697	02/25/2002	Takuji Maeda	401584	8364

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EXAMINER	
SCHUBERT, KEVIN R	

ART UNIT	PAPER NUMBER
2137	

DATE MAILED: 03/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/080,697	Applicant(s) MAEDA ET AL.	
	Examiner Kevin Schubert	Art Unit 2137	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 March 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

EMMANUEL L. MOISE
SUPERVISORY PATENT EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because:

Applicant cancels claims 5-6 and argues that the 112 rejections of claims 5-6 are no longer appropriate based on claim cancellation. Examiner agrees and withdraws the 112 rejections of claims 5-6 accordingly.

Applicant further presents arguments regarding the 102(e) rejection of claims 15,18, and 20 under Batson. After having fully considered Applicant's remarks, Examiner maintains the rejections under Batson presented in the previous action. Applicant's arguments are characterized below:

(1) No teaching of an accuracy threshold
(2) No teaching of target identification accuracy
(3) No teaching of selecting for use only those authentication devices and combinations of authentication devices having calculated identification accuracies meeting a target identification accuracy

Examiner respectfully disagrees with the above. Examiner further disagrees with Applicant that the Batson disclosure is confusing (Remarks, for example, Page 5 lines 3-6). In short, Batson teaches an authentication system for authenticating identities of persons. Authentication devices or combinations of authentication devices may be employed. While Batson does reference non-biometric authentication, Applicant makes clear that the authentication may also be biometric [0020]. In order to gain access to a particular application, a user must perform authentications or combinations of authentications which satisfy a target identification accuracy. For example, in order to gain access to an application with security level 3, a user must satisfy weak encryption and password (Fig 3). In order to gain access to an application with a higher security level (e.g. security level 8), a user must satisfy authentication challenges (which may be more rigorous) to meet the target identification accuracy corresponding to the higher security level. Upon successfully implementing the authentication to meet the target identification accuracy required, a user is granted access to the application with the corresponding security level.

Thus, Examiner disagrees with argument (2) above that there is no teaching of a target identification accuracy. Regarding (1), in order to verify whether or not a user satisfies an authentication form (e.g. biometric, password, etc), a threshold must be in place. A threshold is necessary to authentication-- a user is authenticated if he meets a threshold and is not authenticated below a threshold. Biometric authentication, for example, is determined by a user meeting or not meeting a set threshold level of identification. Thus, while Batson appears to be silent as to the particulars of the threshold level in place, use of a threshold, itself, is required as a threshold reference must be made in order to make an authentication determination.

Lastly, regarding (3), Applicant argues that there is no teaching of selecting for use only the authentication devices and combinations of authentication devices having calculated identification accuracy meeting a target identification accuracy. Examiner respectfully disagrees. Various forms of authentication more accurately or less accurately authenticate a user. A successful strong encryption authentication, for example, provides a more accurate assessment that a user is who he purports to be than a successful weak encryption authentication ([0025], Fig 3). Further, the authentication devices and/or combinations of authentication devices having calculated identification accuracy meeting a target identification accuracy may be selected. For example, in order to access an application with security level 8, strong encryption, password, and smart card are selected, thus employing an associated authentication device and a smart card reader.

Applicant's arguments with regard to the rejection of claims 15,18, and 20 under Kawan fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. Applicant presents a paragraph of his interpretation of Kawan (Remarks, page 7 first complete paragraph) and concludes with a general allegation that the Kawan reference does not describe any of the four limitations of each of the independent claims (Remarks, page 7 lines 23-25). Examiner respectfully disagrees that the Kawan reference does not describe any of the four limitations of the independent claims, but submits that such an argument is not in compliance with 37 CFR 1.111(b) as it does not specifically point out how the language of the claims patentably distinguishes them from the references.

From at least the above, Examiner respectfully submits that the independent claims, as currently presented, do not patentably define over the prior art of reference.